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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/631,110

07/31/2003

Drew Zoller

Z7-6606

7742

7590

05/19/2004

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EXAMINER

HAMMOND, BRIGGITTE R

ART UNIT

PAPER NUMBER

2833

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/631,110

Applicant(s)

ZOLLER, DREW

Examiner

Brigitte R. Hammond

Art Unit

2833

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 6,14,16,19,22 and 25-31 is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-9 is/are rejected.
- 7) ☐ Claim(s) 10-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to applicant's election of Species on April 26, 2004. Applicant's election with traverse of Species 1 is acknowledged. However, the traversal is on the ground(s) that "an examination of the claims of Species 1 would require the searching of the same art as would be required for an examination of Species 2 – 5". This is not found to be persuasive because, The examiner previously stated that "...the restriction is made because the application contains patentably distinct species of the claimed invention, not because the search is a burden...". The applicant was then reminded that if the applicant wishes to transverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence.

The requirement is still deemed proper and is therefore made FINAL.

Claims 6,14,16, 25-30 and 32-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species.

Claims 19 and 22 are also withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5,7,9,18, 21,23,24 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Reardon et al. 6,698,560. Reardon discloses a portable electrical device 200 having a cord 214, said portable electrical device comprising a housing (at 204) and a cord retainer 240, said cord retainer including a flange 248 which is fixedly connected with said housing and which at least partially defines a groove into which the cord may be manually wound.

Regarding claim 2 , Reardon discloses the housing has a surface area 204 which cooperates with said flange to further define the groove into which the cord may be manually wound.

Regarding claims 3 <sup>61a</sup> and 7, Reardon discloses said cord retainer includes a fastener (at 244) which fixedly secures said cord retainer to one side of said housing, said cord retainer is formed separately from said housing and is connected with said housing by said fastener.

Regarding claim 4, Reardon discloses said one side of said housing includes a surface area (at 204) which cooperates with said flange to further define the groove into which the cord may be manually wound.

Regarding claim 5, Reardon discloses said flange and said groove can have a noncircular configuration (col. 4, line 10).

Regarding claims 7 and 8, Reardon discloses the cord retainer is formed separately from said housing and is connected with said housing by an adhesive fastener (col. 3, line 65).

Regarding claim 9, Reardon discloses the cord retainer 240 including a base 242 having a first end portion 244 which is fixedly connected with said housing and a second end portion 246 which is fixedly connected with said flange 248.

Regarding claim 18, Reardon discloses a cord retainer 340 for use with a portable electrical device having a cord 314, said cord retainer comprising a base 344, said base having a first end portion, a fastener connected at 344 with the first end portion of said base to facilitate attachment of the cord retainer to the portable electrical device, and a flange 352 connected with a second end portion of said base, said flange 352 having an inner side surface which faces toward said first end portion of said base and is engageable with at least one turn of cord 314 is manually wound around said base to hold the one turn of the cord between said flange and the surface of the electrical device, said base having a side surface (at 348) which is disposed between said first and second end portions of said base and is engageable with at least one turn of the cord manually wound around the base and disposed between the inner side surface of said flange and the surface of the electrical device.

Regarding claim 21, Reardon discloses a recess 354 in said flange, said recess being engageable with a cord to grip the cord.

Regarding claim 23, Reardon discloses a cellular telephone 200 having a cord 214, said cellular telephone comprising a housing 14, said housing having a front side 202 and a rear side 204 with manually actuatable controls adjacent to the front side of said housing, and a cord retainer 240 which at least partially defines a groove (at 246) into which the cord may be

manually wound, said cord retainer includes a base 242 having first 244 and second 246 end portions, said first end portion of said base being connected with said housing, a flange 248 connected with said second end portion of said base, said flange having an inner side which faces toward said rear side of said housing and at least partially defines the groove which extends around said base and into which the cord may be manually wound.

Regarding claim 24, Reardon discloses the rear side of the housing faces toward the flange and cooperates with the flange to at least partially define the groove into which the cord may be manually wound with at least one turn of the cord disposed in engagement with the rear side of the housing and at least one turn of the cord disposed in engagement with the inner side of the flange.

Regarding claim 31, Reardon discloses the base of the cord retainer being formed by a wall which extends from the flange, the wall having an oval cross section (col. 4, line 10).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reardon. Reardon discloses the invention substantially as claimed except for the side surface of said base having an oval configuration which is similar to and smaller than

the oval configuration of the inner side surface of said flange. However, it would have been obvious to modify Reardon by having the base with a different type of configuration since applicant has presented no explanation that this particular configuration of the base is significant or is anything more than one of numerous configurations a person of ordinary skill in the art would find obvious for the purpose of providing mating surfaces between two surfaces. Also, a change in shape is generally recognizing as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

#### ***Allowable Subject Matter***

Claims 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: regarding claim 10, Patentability resides, at least in part, in the cord retainer having a central axis which extends through said housing, in combination with the other limitations of the base claim.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Okamoto 5,819,894, Luu 5,071,367, Bean 6,428,348, Wiegand et al. 5,138,351 and Smith 5,388,155 were cited for similar cord retainers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brigitte R. Hammond whose telephone number is 571-

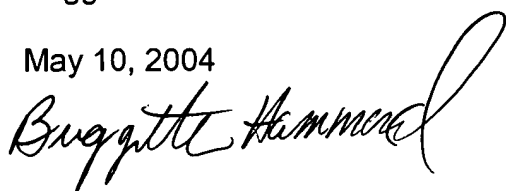
272-2006. The examiner can normally be reached on Monday-Thursday and Alternate Fridays from 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A Bradley can be reached on 571-272-2800 ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brigitte R. Hammond

May 10, 2004

A handwritten signature in cursive script, reading "Brigitte Hammond", written in black ink.